

## SENATE BILL No. 287

### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 24-4-14.

**Synopsis:** Restrictions on video games. Requires a video game retailer to place a warning label on violent or sexually explicit video games. Prohibits the sale or rental of a violent or sexually explicit video game to a child less than 18 years of age. Provides affirmative defenses if: (1) certain relatives of the child were involved in the sale or rental; (2) the child used false identification to buy or rent the video game; or (3) the video game was rated appropriate for children less than 18 years of age by the Entertainment Software Rating Board. Provides an affirmative defense for a video game retailer if a sales clerk, knowing that the purchaser was less than 18 years of age, intentionally sold a violent or sexually explicit video game to an individual less than 18 years of age.

**Effective:** July 1, 2006.

**Simpson**

January 9, 2006, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Introduced

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

## SENATE BILL No. 287

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 24-4-14 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

**Chapter 14. Violent and Sexually Explicit Video Games**

**Sec. 1. As used in this chapter, "age label" means a label:**

- (1) that contains the numeral "18" in solid white outlined in black;**
- (2) in which the numeral "18" measures at least two (2) inches by two (2) inches; and**
- (3) that is affixed to the front of a video game package.**

**Sec. 2. As used in this chapter, "character" means a depiction or simulation of a human being that may be played, viewed, or experienced as part of a video game.**

**Sec. 3. As used in this chapter, "nudity" has the meaning set forth in IC 35-49-1-5.**

**Sec. 4. As used in this chapter, "sales clerk" means a person who:**



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(1) transacts the rental or sale of a video game with the general public; and

(2) is not the owner, operator, or manager of a video game retailer.

Sec. 5. As used in this chapter, "sexual conduct" has the meaning set forth in IC 35-49-1-9.

Sec. 6. As used in this chapter, "video game" means an object or a device that:

(1) stores recorded data or instructions;

(2) receives data or instructions generated by a person; and

(3) processes the data or instructions;

to create an interactive game that may be played, viewed, or experienced on a computer, a gaming system, a console, or other technology.

Sec. 7. As used in this chapter, "video game retailer" means a person who sells or rents a video game to the general public. The term does not include a sales clerk.

Sec. 8. As used in this chapter, "violent or sexually explicit video game" means a video game that:

(1) depicts a character that appears to:

(A) kill;

(B) dismember;

(C) decapitate;

(D) maim;

(E) disfigure;

(F) mutilate;

(G) cause serious bodily harm to;

(H) rape; or

(I) torture;

another character; or

(2) the average person, applying contemporary community standards with respect to minors, would find:

(A) is designed to appeal to the prurient interest; and

(B) depicts or simulates:

(i) sexual conduct; or

(ii) nudity;

in a manner patently offensive to minors.

Sec. 9. A video game retailer shall affix an age label to every violent or sexually explicit video game available for purchase or rental from the video game retailer. A video game retailer that does not affix an age label to a violent or sexually explicit video game that is available for purchase or rental from the video game

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retailer commits a Class C infraction. However, the offense is a Class B infraction if the video game retailer has committed three (3) or more prior unrelated infractions under this section.

**Sec. 10. A video game retailer who:**

(1) sells;

(2) rents; or

(3) permits another person to sell or rent;

a violent or sexually explicit video game to an individual less than eighteen (18) years of age commits a Class B infraction.

**Sec. 11. A sales clerk who knowingly or intentionally sells or rents a violent or sexually explicit video game to an individual less than eighteen (18) years of age, knowing that the individual is less than eighteen (18) years of age, commits a Class B infraction.**

**Sec. 12. It is an affirmative defense to an action brought under section 10 or 11 of this chapter that:**

(1) the person who sold, rented, or caused another person to sell or rent a violent or sexually explicit video game to an individual less than eighteen (18) years of age is:

(A) a parent;

(B) a grandparent;

(C) a legal guardian;

(D) an aunt; or

(E) an uncle;

of the individual; or

(2) the child less than eighteen (18) years of age who purchased or rented the violent or sexually explicit video game offered a false identification card purporting to show that the individual was at least eighteen (18) years of age, if the false identification card could reasonably be mistaken for a valid identification card.

**Sec. 13. It is an affirmative defense to an action brought against a video game retailer under section 10 of this chapter based on a sale or rental transacted by a sales clerk that:**

(1) the sales clerk who sold or rented a violent or sexually explicit video game to an individual less than eighteen (18) years of age knowingly or intentionally sold or rented the violent or sexually explicit video game to the individual less than eighteen (18) years of age, knowing that the individual was less than eighteen (18) years of age; and

(2) the video game retailer was unaware of the age of the individual described in subdivision (1) at the time of the sale or rental.

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1       **Sec. 14. It is an affirmative defense to an action brought under**  
2       **section 10 or 11 of this chapter that the violent or sexually explicit**  
3       **video game sold or rented to an individual less than eighteen (18)**  
4       **years of age was prepackaged and rated EC, E10+, E, or T by the**  
5       **Entertainment Software Ratings Board.**

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